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SUPREME COURT OF THE UNITED STATES.

No. 82.

JOHN BACON AND AL., COMP'TS AND APP'TS,

vs.

WILLIAM ROBERTSON AND AL.

APPEAL FROM THE CIRCUIT COURT U. S. FOR THE SOUTHERN DISTRICT OF MISSISSIPPI.

INDEX.

	Original.	Print.
Bill of complaint	1	1
Exhibit A	9	7
Subpœna and marshal's return	16	12
Demurrer of defendants	18	13
Decree	18	13
Appeal prayed and allowed	19	13
Copy of appeal bond	19	14
Certificates of clerk and judge	21	15

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JOHN BACON et al.
vs.
WILLIAM ROBERTSON et al. } In chancery.

Pleas before the honorable Samuel J. Gholson, district judge of the United States, at a circuit court of the United States in and for the ninth circuit and southern district of Mississippi, held at the town of Jackson, in said district, on the second Monday of January, in the year of our Lord one thousand eight hundred and fifty-five, which said second Monday of January was the day to which said court was adjourned, by order of said court made on the first Monday of November, in the year of our Lord one thousand eight hundred and fifty-four.

Be it remembered, that heretofore, to wit, on the ninth day of October, A. D. 1854, John Bacon and Thomas Robins, surviving trustees of the bank of the United States, and William R. White, John Hooper, Lewis Phœnix, and John D. Beers, stockholders of the late Commercial Bank of Natchez, by their solicitors, Yerger and Winchester, filed their bill of complaint herein against William Robertson, Philip Hoggatt, Henry Chotard, and John F. Gillespie, in the words and figures following, to wit:

To the Judges of the circuit court of the United States for the southern district of Mississippi, sitting in chancery:

John Bacon and Thomas Robins, surviving trustees of the Bank of the United States, William R. White and John Hooper, citizens of the State of Pennsylvania, and Lewis Phœnix and John D. Beers, citizens of the State of New York, stockholders of the late Commercial Bank of Natchez, who sue on behalf of themselves and all other stockholders of said late Commercial Bank of Natchez who are citizens of other States than Mississippi, who shall come in and seek relief by and contribute to the expenses of this suit, bring this their bill against William Robertson, Philip Hoggatt, Henry Chotard, and John F. Gillespie, and others (names unknown), stockholders of the late Commercial Bank of Natchez, and citizens of the State of Mississippi.

And thereupon your orators complain, and show unto your honors, that in the year 1836 the legislature of the State of Mississippi passed an act to incorporate a banking institution to be established in the city of Natchez, in said State, under the title of the Commercial Bank of Natchez, with a capital of two millions of dollars, to be divided into twenty thousand shares of one hundred dollars each. That said act of incorporation further required the said bank to establish, within six months after the mother bank should go into operation, a branch at Canton, in the county of Madison, with a banking capital of six hundred thousand dollars; a branch at Holmesville, in the county of Pike, with a banking capital of not less than one hundred and fifty thousand dollars; a branch at Shieldsboro, in the county of Hancock, with a

capital of not less than one hundred and fifty thousand dollars; and a branch at Brandon, in the county of Rankin, with a capital of not less than one hundred and fifty thousand dollars; and to the end that the four branches might be established, the said bank was authorized to increase its capital by a further subscription to the extent of the sums therein allotted to said branches, which act was approved on the 27th day of February, 1836. That shortly after the passage of said act of incorporation, the whole twenty thousand shares of capital stock were subscribed for on the terms and in the manner prescribed by said act. And the said mother bank was duly established in the city of Natchez; and within six months thereafter the four branches were duly established as required by said charter, the said bank having increased its capital by a further subscription for one million and fifty thousand dollars, divided into ten thousand and five hundred shares of one hundred dollars each, thus making the whole capital of said bank three millions and fifty thousand dollars, divided into thirty thousand and five hundred shares. That the said Commercial Bank of Natchez became the proprietors of the money subscribed and paid in by the stockholders, and used the same as a fund for the purpose of issuing notes, receiving deposits, making discounts, and carrying on banking operations and other moneyed transactions which she might lawfully perform under and by virtue of said act of incorporation. And for many years thereafter, the said Commercial Bank of Natchez continued to transact business as a bank, to acquire property, contract debts, &c., under the provisions of said charter. That your orators duly became and were stockholders of said bank, and owners of shares of the capital stock of said bank, and still are such owners, as follows: Your orators, John Bacon and Thomas Robins, surviving trustees of the Bank of the United States, were and are the owners of four thousand five hundred and eighty-six (4,586) shares; William R. White, of four hundred and ten (410) shares; John Hooper, of two hundred and thirty-nine (239) shares; Lewis Phœnix, of seven hundred and forty-five (745) shares; and John D. Beers, of three hundred and five (305) shares. On all of which said shares has been paid the sum of one hundred dollars per share, with the exception of three hundred shares owned by your orators, John Bacon and Thomas Robins, surviving trustees, &c., on which the sum of sixty dollars per share only has been paid. And your orators severally hold certificates of stock for the number of shares above set forth, and have held the same for a long time past, and were the holders thereof long prior to the occurrence of the matters hereinafter set forth.

Your orators further state and show, that in the year 1843 the legislature of the State of Mississippi passed an act entitled "An act to prescribe the mode of proceeding against incorporated banks for a violation of their corporate franchises, and against persons pretending to exercise corporate privileges under acts of incorporation, and for other purposes," which act was approved and became a law on the 26th day of July, 1843; and also an act amendatory thereof, approved 28th February, 1846. That, under and by virtue of said acts, proceedings

were instituted and had in the circuit court of Adams county, in the State of Mississippi, at the suit of the State against the said "Commercial Bank of Natchez," by an information in the nature of a quo warranto against said bank, which proceedings were so conducted, that afterwards, to wit, on the 12th day of June, 1845, by the consideration and judgment of said circuit court of Adams county, the said "Commercial Bank of Natchez" was prejudged and excluded from further holding or exercising the liberties, privileges, and franchises granted by the said charter; and it was further adjudged, that all the said liberties, privileges, and franchises granted to said bank, be seized by said State of Mississippi, and that all the property, books, and assets of said bank be seized and delivered to the trustee thereinafter to be appointed, and that said trustee have execution therefor; and it was further ordered that William Robertson, defendant to this bill of complaint, be appointed trustee to take charge of the assets and books of said "Commercial Bank of Natchez," wherever the same might be found, either in the possession of said bank or their officers, agents, trustees or attorneys, to sue for and collect all debts due to said bank, and to sell and dispose of all property, real or personal, owned by said bank or held by others for its use, and the proceeds of the debts when collected, and of the property when sold, to apply as might be thereafter directed by law to the payment of the debts of the said "Commercial Bank of Natchez." And afterwards, to wit, on the same day, the said "Commercial Bank of Natchez" prayed the court for an appeal from said judgment to the high court of errors and appeals of the State of Mississippi, which appeal was granted, and afterwards at the January term, 1846, spring session of the high court of errors and appeals, the said judgment of the circuit court of Adams county rendered against said bank was, by the order and judgment of the said high court of errors and appeals, affirmed; a transcript of which proceedings and judgment will be herewith filed as an exhibit, if required.

And your orators aver, that said judgment of forfeiture was based wholly and entirely upon a temporary and accidental suspension of specie payment of said bank for a short period of time.

Your orators further state and show, that the defendant, William Robertson, as trustee as aforesaid, under said judgment of forfeiture rendered under the said act of the legislature, took possession on the 20th day of July, 1846, of all the real and personal estate, goods, chattels, effects, and assets, of every name and nature, whether real, personal, or mixed, of and belonging to the said "Commercial Bank of Natchez" and its branches, amounting, in the aggregate, to the sum of three millions seven hundred and ten thousand six hundred and twenty-two $\frac{87}{100}$ dollars, exclusive of the real estate, slaves, furniture of banking-houses, and stocks of other banks, to which no correct estimate of value could be attached, and which is more particularly set forth and described in a schedule herewith filed, marked Exhibit A, and prayed to be taken as a part of this bill of complaint. That the said defendant, Robertson, has held said property and rights of property, as

trustee as aforesaid, up to the present time, and now holds the same, except so much thereof as has been used and applied by him to the payment of the debts of the said "Commercial Bank of Natchez."

Your orators are informed and believe, and so charge the facts to be, that the said William Robertson has sold a portion of the property, both real and personal, of said bank, and collected a large amount of the debts due to said bank; that with the proceeds of such sales and collections, he has paid off and discharged the last of the debts due by said bank, and that there is now no creditor in existence holding any claims against said late bank, or against said Robertson as trustee thereof, except claims to a trifling amount for costs, fees, and other expenses incidental to the execution of his trust. That after retaining a sufficient sum to pay all such incidental expenses, there still would remain in the hands of said Robertson a very large sum of money, the amount unknown to your orators—say from eighty to one hundred thousand dollars. That there still remains outstanding a large amount of debts due to said late bank, or to the said Robertson, as trustee thereof, some of which have been renewed and now stand in favor of said Robertson, as trustee; others in form of judgment at law and decrees in equity in favor of said Robertson, as trustee, against divers citizens of the State of Mississippi, whose names are unknown to your orators. That a large amount of real and personal property, owned by the said bank, the particular description of which is unknown to your orators, yet remains unsold and undisposed of in the State of Mississippi. That the said Robertson fails and refuses to collect said debts, and to sell and dispose of said estate, on the ground that on the payment by him of all the debts due by the said "Commercial Bank of Natchez," his trust has become fully satisfied and ended.

Now, your orators are advised and believe, and so charge the fact to be, that although the legal ownership of all of said property and rights of property, real, personal, and mixed, was before, and at the date of said judgment of the forfeiture, in the said "Commercial Bank of Natchez," yet the entire beneficial interest therein, after the payment of the debts of said bank, belonged to and was vested in your orators and others, stockholders of said bank; that said property was held by said bank in trust, to be disposed of in a lawful manner for the benefit of the creditors and stockholders thereof. That your orators and the other stockholders of said late "Commercial Bank of Natchez" have a vested, equitable interest in all of the said property and rights of property now remaining in the hands of said William Robertson, as trustee, in proportion to the amount of stock owned by each; and that the said surplus sum of money in the hands of said Robertson, together with the estate, real and personal, belonging to said late bank, and all the debts, judgments, and decrees due to and rendered in favor of said bank or said William Robertson, as trustee thereof, constitute in equity a fund for the use and benefit of your orators and the other stockholders of said bank. That the debtors of said late bank hold the money due from them on their said bank debts severally in trust, for

the use and benefit of your orators and the other stockholders. And that they are entitled to have the said fund, as the assets of said late bank, rateably distributed among them in proportion to the stock and shares of stock owned by each.

Your orators are informed that the defendants, Philip Hoggatt, Henry Chotard, and John F. Gillespie, are stockholders in said bank, and have an interest in the subject-matters of this suit; and that there are other stockholders of said bank, residents of said State of Mississippi, at present unknown to your orators, whose names, when discovered, your orators pray they may be at liberty to insert herein, with apt words to charge them as parties defendant hereto.

And your orators further show, that the persons who now claim to be stockholders, or have an interest in the property and assets of said late bank, exceed two hundred and eighty individuals, most of whom are unknown to your orators. That some of them reside in New York, some in Pennsylvania, some in North Carolina, some in Great Britain, and some in the State of Mississippi, and that the residences of others are unknown to your orators, and could not be ascertained upon diligent inquiry; so that it is impracticable to make them parties to this suit, or to prosecute the same effectually, if they could all be made defendants hereto.

Your orators charge that the said defendant, William Robertson, refuses to account with your orators for said property of said bank now remaining in his hands, and refuses to pay unto your orators their proportionate share of the said surplus sum of money in his hands, all which actings and doings are contrary to equity.

To the end, therefore, that the said William Robertson may answer on oath the allegations of this bill, and specially that he may fully set forth and discover, according to the best of his knowledge, information, and belief, the nature and situation, amount and value of all the property, interests, and effects of the late "Commercial Bank of Natchez" now remaining unsold and undisposed of, including all things in action of whatever nature and kind, with all the particulars relating thereto, and that he may answer and state whether, at the time of filing this your orators' bill of complaint, there are not debts due to said late bank, or to him as trustee thereof, to a considerable amount; and if so, that he may state particularly the amount of such debts, respectively, and from whom the same are due, and what securities are held therefor; and also that he may state which and what amount of said debts are good and collectable, and what amount bad or doubtful, and whether, at the time of filing this your orators' bill, he has not some property, real or personal, in law or equity, belonging to said late "Commercial Bank of Natchez," and held by him as the trustee thereof; and if so, that he may state and set forth a full, true, and particular account thereof; and that he may also state whether he has not some money of some kind in his possession or under his control, or deposited to his credit or for his use, or in some way or manner held for his benefit as trustee of the late "Commercial Bank of Natchez;" and if so, that he may state

and set forth particularly the amount thereof, and how and by whom the same is held.

And that some suitable and proper person may be appointed receiver of all the debts, property, equitable interests, and things in action of the said late "Commercial Bank of Natchez," and that the said William Robertson may be decreed to assign, transfer, and deliver over to such receiver all the property, real and personal, and all other equitable interests, things in action, and other effects which belonged to the said bank, and were held by him as the trustee thereof, at the time of the filing this bill of complaint; and that said receiver have full power and authority to inquire after, receive, and take possession of all such property, debts, equitable interests, things in action, and other effects; and that the said receiver have full power and authority to demand, sue for, and collect, in his name or the name of your orators, for the use of your orators and others, stockholders of the late "Commercial Bank of Natchez," or otherwise, all debts and demands belonging to the said late "Commercial Bank of Natchez," or to the said William Robertson, as trustee thereof; and to compromise and settle such as are unsafe or of a doubtful character, and to dispose of the property, real and personal, so to be assigned and delivered over to him as he may deem most desirable. That said receiver may hold all of said funds and of the proceeds of the debts when collected, and of the property when sold, and other assets of the late "Commercial Bank of Natchez," subject to the present and future order, direction, and control of this court. And that the other defendants herein may file their answers hereto. And that the parts and shares justly belonging to your orators and all the other stockholders of the late said bank, in and to said assets, may be settled and ascertained by and under the direction of this court, and that a fair division thereof may be made between your orators and all other persons who shall appear to be owners of stock in the said late "Commercial Bank of Natchez," and shall come in and seek relief by and contribute to the expenses of this suit, according to the respective rights and interests of each therein, to be ascertained and declared by the order or decree of this court.

And that your orators may have such further relief, or may have such other relief, as the nature of this case shall require, and as shall be agreeable to equity: May it please your honor to grant unto your orators the writ of subpœna issuing out of and under the seal of this honorable court, to be directed to the said William Robertson, Phillip Hoggatt, Henry Chotard, and John F. Gillespie, commanding them and each of them, by a certain day, and under a certain penalty therein to be inserted, to be and appear before this honorable court, sitting in chancery, and answer the premises, and further to stand to and abide such order and decree therein as shall be agreeable to equity and good conscience.

And your orators shall ever pray, &c.

GEO. S. YERGER,
And JOSIAH WINCHESTER,
Solicitors for complainants.

"*Exhibit A.*"

Assets of the Commercial Bank of Natchez and branches, which were surrendered to William Robertson, trustee, by the officers of said Commercial Bank on or before the 2d day of November, 1846.

Parent bank—	
Bills receivable not in suit - - - - - -	$1,368,620 74
Do. do. in suit - - - - - - -	980,031 49
Do. do. not due - - - - - - -	297,221 53
Do. do. in hands of commissioners of insolvent estates - - - - - - - - - -	79,794 70
Moneys - - - - - - - - - - -	139,738 64
Balances due from banks and individuals - -	144,361 05
	$3,009,768 15

Also the following real estate:

Land in Bolivar county.—All that parcel of land lying and being in Bolivar county and State of Mississippi, and described as the W. $\frac{1}{2}$ of the N. E. $\frac{1}{4}$ of section 36, township 20, range 7 west.

Tallahatchie county.—All that parcel of land lying and being in Tallahatchie county and State of Mississippi, and described as S. W. $\frac{1}{4}$ section 2; S. E. $\frac{1}{4}$, E. $\frac{1}{2}$ of S. W. $\frac{1}{4}$, and E. $\frac{1}{2}$ of N. E. $\frac{1}{4}$ section 10; W. $\frac{1}{2}$ of section 11; E. $\frac{1}{2}$ of N. W. $\frac{1}{4}$ and W. $\frac{1}{2}$ of S. W. $\frac{1}{4}$ section 14; N. E. $\frac{1}{4}$ of section 15; E. $\frac{1}{2}$ of S. W. $\frac{1}{4}$, W. $\frac{1}{2}$ of S. E. $\frac{1}{4}$, E. $\frac{1}{2}$ N. E. $\frac{1}{4}$, W. $\frac{1}{2}$ N. W. $\frac{1}{4}$ section 22, township 24, range 1 east; and the E. $\frac{1}{2}$ of the E. $\frac{1}{2}$ of the N. W. $\frac{1}{4}$ section 15, township 24, range 1 east; and the S. W. $\frac{1}{4}$ and W. $\frac{1}{2}$, S. E. $\frac{1}{4}$ section 15, township 24, range 1 east.

Holmes county.—All that parcel of land lying and being in Holmes county and State of Mississippi, and described as the S. $\frac{1}{2}$ of section 11; S. E. $\frac{1}{4}$ of section 9, township 14, range 2 W., containing in all 481 $\frac{95}{100}$ acres.

Lafayette county, Arkansas.—All those parcels of land described as W. $\frac{1}{2}$ and S. E. $\frac{1}{4}$ section 14; E. $\frac{1}{2}$ section 15; S. W. $\frac{1}{4}$ section 13; N. W. $\frac{1}{4}$ section 24; N. $\frac{1}{2}$ section 28, in township 17, range 21 west. Also the S. $\frac{1}{2}$ of section 15; all of section 22; S. W. $\frac{1}{4}$ section 23; W. $\frac{1}{2}$ section 26; E. $\frac{1}{2}$ section 27; N. W. $\frac{1}{4}$ section 27; N. $\frac{1}{2}$ of section 28; all of section 21; S. E. $\frac{1}{4}$ section 17; E. $\frac{1}{2}$ and S. W. $\frac{1}{4}$ section 20; N. $\frac{1}{2}$ of section 29; N. E. $\frac{1}{4}$ of section 30; S. E. $\frac{1}{4}$ of section 19, in township 18, range 21 west. Also section 6, township 20, south of R. 22 W. Also S. E. $\frac{1}{4}$ section 26, E. $\frac{1}{2}$ of N. W. $\frac{1}{4}$ section 35, S. W. $\frac{1}{4}$ section 25, township 17, south of range 24 west.

Hempstead county, Arkansas.—All that parcel of land described as sections one and two in township 14 south, of range 25 west.

Wilkinson county, Miss.—That tract or parcel of land situate and lying in Wilkinson county and State of Miss., in township 2, range 3 west, being described as follows: bounded on the north by land of

, on the south by public lands, on the west by Buffalo creek, containing 400 acres, more or less.

(These lands were all in the name of Thomas Henderson, trustee for the bank, and were transferred by him to Wm. Robertson, trustee, by deed dated 15 Oct., 1846.)

In the city of Natchez.—Lot No. 2, in square No. 3, purchased of C. Dart and wife; deed dated 31 March, 1836; on which are the banking-house and a brick building at the corner of Main and Canal streets. Deed recorded in Book X, pages 85 and 86.

House and lot on Commerce street, purchased of John Watt in liquidation of debt. Deed recorded in Book C C, pages 422 and 423; deed dated 16th Feb'y, 1841.

House and lot on Washington street, purchased of Ro. McConnell in liquidation of debt. Deed dated Novem. 20, 1840; recorded in Book D D, page 129.

One lot on Franklin street, 90 feet front by 120 in depth.

One lot on Rankin street, 40 feet front by 120 in depth, joining the above.

One house and lot, corner of Market and Wall streets.

The above three lots sold by Mark Izod, sheriff, under executions against Franklin Beaumont; deed dated 21st September, 1840—recorded in Book C C, pages 259 and 260; and six negro slaves.

Lot No. 67, on Main street, 50 feet front, 204 deep, and house.

Lot of about 5 acres, the residence of Franklin Beaumont, adjoining property of J. Beaumont.

The above two lots sold by S. B. Newman, sheriff, as the property of Franklin Beaumont. Deed dated 16th Oct., 1843; recorded in Book E E, pages 177 and 178.

House and lot on Commerce street, between Franklin and Jefferson streets, sold by Thos. Henderson, trustee, and F. S. Hunt, assignee of Cyrus Marsh. Deed recorded in Book E E, pages 124 and 125, and Book E E, pages 575 and 576.

House and lot on Main street, purchased of W. W. Gaines, trustee of A. L. Gaines. Deed dated 29 August, 1843; recorded Book E E, page 176.

In Wilkinson county.—Tract of land with house and improvements about one mile below Woodville, 29 $\frac{12}{100}$ acres. Deed from Josiah Scott, June 20, 1842; recorded in Book M, page 611.

Smithland plantation, containing 1,742 $\frac{03}{100}$ acres, with 51 slaves thereon, furniture, stock, tools, &c., &c., on the same, purchased of Thomas S. Herbert, trustee of Wm. T. Mayes, February 6th, 1843. Deed recorded in Book N, pages 171 to 177.

Plantation of D. H. Prosser and 5 negro slaves, purchased of W. H. West, trustee of D. H. Prosser, 16 March, 1842.

In Claiborne county.—Three tracts—160 acres, 200 acres, and 390 acres—from James R. Patton. Deed dated 10 March, 1843, and recorded in Book W, pages 291 and 292.

Lots Nos. 4, 5, 6, 7, and 10, and house thereon in Grand gulf,

known as "McBryde property." Lots Nos. 1 and 2, in square 22, in Port Gibson. Deed for the above two from R. R. Sharkey, dated 29 October, 1844; recorded in Book X, pages 125 and 126.

In Warren county.—Part of lot No. 12, in Vicksburg. Deed from H. W. Vick and W. S. Bodley, May 16th, 1845; recorded in Book T, page 495.

In Rankin county.—Various tracts of land, containing 12,688 $\frac{300}{1000}$ acres. Deed from Merchants' Bank of New Orleans, 16 August, 1843; recorded in Book S, pages 372 to 380.

In Simpson county.—Three tracts of land, containing 400 $\frac{240}{1000}$ acres. Deed from Merchants' Bank, New Orleans, 16 August, 1843; recorded in Book 4, pages 52 to 59.

In Madison county.—Plantation purchased of Tupper & Rollins, trustees of Wm. M. Haden. Deed dated February 2, 1841; recorded in Book H, pages 406 and 407.

In Holmes county.—Several tracts of land, containing 1,073 $\frac{480}{1000}$ acres. Deed from P. G. Cregiert, dated 23 March, 1843, and recorded in Book G, page 382.

In Choctaw county.—One tract of land, containing 79 $\frac{880}{1000}$ acres. Deed from C. A. Lacoste; recorded in Book H, pages 227, 228.

In Bolivar county.—Several tracts of land, containing 1,105 $\frac{140}{1000}$ acres. Deed from M. L. Fitch and George Fisher; recorded in Book B, pages 503, 504, and 505.

In Amite county.—Plantation bought of David Gordon.

In Madison parish, Louisiana.—Tract of land known as Lape plantation. Deed from Thos. B. Scott, sheriff, containing 1,174 $\frac{200}{1000}$ acres, less 6 acres sold to A. Pearce. Deed dated 4 June, 1841; recorded in Book B, pages 114 and 115.

In Washington county.—Sections 28, 29, 33, W. $\frac{1}{2}$ of 27, and lots 3 and 4 of sect. 34, in T. 19, R. 6 W., and W. $\frac{1}{2}$ of section 4; N.W. $\frac{1}{4}$ of sec. 9, T. 18, R. 6 W., containing 2,744 $\frac{780}{1000}$ acres, the title to which is not yet in the bank, but on which the bank holds a deed of trust made by Moore & Glidewell, the same having been received from Wm. S. Bodley in a compromise with him on act. of his debt.

In Jefferson county.—The undivided half of acres of land belonging to Mrs. Josh'a James, bought by J. W. Bunce for the bank, at sheriff's sale, 12 December, 1843.

Also the following *furniture:*

President's desk.
Directors' table and desk.
14 chairs.
Cashier's desk.
2 Letter presses and table.
2 triangular tables for pitchers.
6 counter desks.
4 paper cases.
2 teller's tables.
3 desk stools.
Washstand, pitcher, and bowls.
1 small iron safe.
111 specie boxes.
1 canceling hammer and block.
1 small engine.
Inkstands, ink, and sundry small articles.
14 fire buckets.

Also the following *Bank stock:*

Scrip for three hundred and eighty-five shares of stock in the Commercial Bank of Rodney, and for two hundred shares of stock in the Grand Gulf Railroad and Banking Company.

Branch at Brandon.

Bills receivable not in suit - - - - - -	$80,650 45
Do. in suit - - - - - -	66,414 92
	$147,065 37

Also the following *Real estate in the town of Brandon:*

Part of lot No. 3, in square No. 2; south half of Seminary Square, commencing at the corner of Government and College streets, and running west on Government street 100 feet to a stake; thence south 84 feet to a stake; thence east 100 feet to a stake on the west side of College street; thence north 84 feet to the beginning; together with all the appurtenances thereto belonging, as per deed from Warren and Elizabeth Holcombe to the Commercial Bank of Natchez.

Recorded November 17, 1838, in Book D, pages 355 and 356, of Records of Deeds of Rankin county, Mississippi.

Branch at Canton.

Bills receivable not in suit - - - - - -	$368,139 77
Do. in suit - - - - - -	100,123 71
Uncurrent money - - - - - - -	41,310 00
	$509,573 48

Also the following *Real estate:*

In Canton, 60 feet off of the north side of lot No. 1, square No. 4; and the whole of lots Nos. 7 and 8, in square No. 4. Upon the first named lot stands the banking-house.

In Madison county.—Northwest quarter of section 14; west half of southeast quarter of section 22; the southwest quarter of section 22; the northwest quarter of section 27; and the north half of west half of southeast quarter section 21, township 10, range 5 east.

And the following *office furniture* in the Branch Bank at Canton:

1 large iron chest.
1 smaller ditto.
1 director's table.
1 cashier's desk.
1 president's do.
2 clerk's do.
1 teller's table and frame.
4 desk knives.
2 erasing knives.
2 pomice boxes.
7 inkstands.
1 letter-stamp.
1 office seal.
2 wafer boxes.

1 discount box.
1 canceling block.
1 do. hammer.
3 cash tills.
10 chairs.
2 stools.
1 pair andirons.
1 pair shovel and tongs.
1 fire-fender.
1 bedstead and bedding.
1 book-case.
1 small table.
2 pair paper shears.
2 tin folders.
1 ivory folder.
1 sand box.
4 rulers.
3 hones.
4 check files.
1 specie pan.
1 iron folder.
3 glass stamp weights.
1 metal do.
24 small blank books.
1 screw-driver.
1 portfolio.
1 clothes' brush.
1 clock.
1 interest table.

Branch at Shieldsboro.

Bills receivable not in suit - - - - - -	$4,945 31
Do. in suit - - - - - -	9,926 58
	$14,871 89

Branch at Holmesville.

Bills receivable not in suit - - - - - -	$12,579 63
Do. in suit - - - - - -	16,758 23
Specie - - - - - - - - -	6 12
	$29,343 98

Also the following *Real estate in Holmesville:*

Town lots Nos. 37 and 45, in the town of Holmesville, Pike county, Miss., containing half an acre each, and east half of lots 38 and 46, in same town, containing a quarter acre; each half lot being in all one and a half acres on the north side of the public square, as per deed from A. P. Cunningham and wife to Commercial Bank of Natchez, dated 5th March, 1839, and recorded on same day. Also per deed from C. W. Adams to Commercial Bank of Natchez, dated 2d March, 1843, and recorded 3d March, 1843.

And the following furniture belonging to the Branch Bank at Holmesville:

1 iron safe.
1 large table.
1 counter screen.
1 dozen chairs.
Bedstead, mattrass, &c.
Washstand, looking-glass, &c.
1 book-case.
1 large desk.
1 discount box.
2 office stools.
Books, paper, quills, &c.

Amounting in all to the sum of three millions seven hundred and ten thousand six hundred and twenty-two $\frac{8}{100}$ dollars. Exclusive of the real estate, slaves, furniture of banking-houses, and stocks of other banks, to which no correct estimate of value can be attached.

And afterwards, to wit, on the 9th day of October, A. D. 1854, the following subpœna issued out of the clerk's office of the court aforesaid, in the words and figures, to wit:

UNITED STATES OF AMERICA,
Southern district of Mississippi, ss:

The President of the United States, to William Robertson, Philip Hoggatt, Henry Chotard, and John F. Gillespie, greeting:

For certain causes offered before us in our circuit court for the southern district of Mississippi, sitting in chancery, we command you, that laying all other matters aside, and notwithstanding any excuse, you personally appear at our circuit court in and for said district, sitting in chancery, to be held at the town of Jackson, on the first Monday of November next, to answer to a bill of complaint exhibited against you by John Bacon and Thomas Robins, surviving trustees of the Bank of the United States, and William R. White, John Hooper, Lewis Phœnix, and John D. Beers, stockholders of the late "Commercial Bank of Natchez," complainants, in our said court; and further to do and receive what our said court shall consider in this behalf. Hereof fail not, as you will answer the contrary at your peril.

Witness the honorable Roger B. Taney, chief justice of the Supreme Court of the United States, at Jackson, the first Monday in May, A. D. one thousand eight hundred and fifty-four, and in the 78th year of the independence of the United States.

[L. S.]

Issued the 9th day of October, 1854.

The defendants are required to enter their appearance in this suit in the clerk's office, on or before the day to which this writ is returnable, otherwise the bill may be taken pro confesso.

W. H. BROWN, *Clk.*

To the Marshal of the southern district of Mississippi, to execute and return.

Marshal's deputation.

I nominate and appoint O. Metcalfe, my special deputy, to execute and return this process. Given under my hand and seal, this 9th Oct. 1854.

RICH. GRIFFITH, [SEAL.]
U. S. Marshal, &c.

Marshal's return.

Executed this writ, October 13, 1854, on Henry Chotard, by delivering him a copy; and same day on Philip Hoggatt, by delivering him

a copy. October 14, 1854, on William Robertson, by delivering him a copy; and same day on John F. Gillespie, by delivering him a copy.

RICHARD GRIFFITH, *U. S. Marshal.*
By O. METCALFE, *Special d'py marshal.*

Demurrer.

In the circuit court of the United States for the southern district of Mississippi.—In chancery.

JOHN BACON et al.
vs.
WM. ROBERTSON et al. } 256.

The demurrer of the defendants to the bill of complaint in said above-named cause.

These defendants, by protestation, &c., do demur to the said bill, and for cause of demurrer show that the said complainants have not by their said bill made such a case as entitles them in a court of equity to any discovery or relief from these defendants or either of them, as to the matters contained in the said bill or any of such matters; wherefore, they do demur to said bill, and pray judgment, &c.

GEO. L. POTTER, *Sol. for defts.*

We waive affidavit and certificate required by the rules in the matter of the foregoing demurrer.

YERGER & WINCHESTER.

And afterwards, to wit, on the 17th day of January, 1855, this cause was set for hearing on the demurrer of the defendants to the bill of complaint, by consent of the solicitors for complainants and defendants.

Final decree.

In the circuit court of the United States, southern district of Mississippi.—In chancery.

JOHN BACON et al.
vs.
WM. ROBERTSON, trustee, et al. } 256.—January adjourned term, 1855.

This cause coming on to be heard before the honorable Samuel J. Gholson, presiding judge at the January adjourned term, A. D. 1855, of the court aforesaid, upon the demurrer of all the defendants to the bill of complaint herein, and the same being duly considered, it is now ordered, adjudged, and decreed, and the court doth hereby adjudge and decree, that the said demurrer be sustained, and that said bill of complaint be dismissed at the cost of the complainants. Ordered, adjudged, and decreed, this 17th day of January, 1855.

S. J. GHOLSON, [SEAL.]

From which decision the complainants pray an appeal to the Supreme Court of the United States, which is granted upon their entering into bond, in the penalty of three hundred dollars, conditioned accord-

ing to law, with George S. Yerger as security thereon. Bond filed and approved.

Copy of Appeal bond.

UNITED STATES OF AMERICA,
Southern district of Mississippi, sct.

Know all men by these presents, that we, John Bacon, Thomas Robins, William R. White, John Hooper, Lewis Phœnix, John D. Beers, and George S. Yerger, are held and firmly bound unto William Robertson, Philip Hoggatt, Henry Chotard, and John F. Gillespie, in the just and full sum of three hundred dollars, lawful money of the United States, to be paid to the said William Robertson, Philip Hoggatt, Henry Chotard, and John F. Gillespie, their lawful attorney, executors, administrators, or assigns, for which payment well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents; sealed with our seals, and dated the 20th day of January, A. D. one thousand eight hundred and fifty-five.

The condition of this obligation is such, that whereas, at an adjourned term of the circuit court of the United States for the southern district of Mississippi, commenced and held at the city of Jackson, on the second Monday of January, A. D. 1855, a decree was rendered by said court in favor of the said William Robertson, Philip Hoggatt, Henry Chotard, and John F. Gillespie, against the said John Bacon and Thomas Robins, surviving trustees of the Bank United States, William R. White, John Hooper, Lewis Phœnix, and John D. Beers, dismissing the bill with costs of suit; and the said John Bacon, Thomas Robins, William R. White, John Hooper, Lewis Phœnix, John D. Beers, have prayed for and obtained an appeal to the Supreme Court of the United States, to reverse said decree: Now, if the said John Bacon, Thomas Robins, William R. White, John Hooper, Lewis Phœnix, and John D. Beers, shall prosecute their said appeal with effect, and shall well and truly pay and satisfy the amount of such costs as the said Supreme Court of the United States shall adjudge in the premises, if they shall fail to make their plea good, then, and in that case, this obligation to be void, otherwise to remain in full force and virtue.

JOHN BACON, [SEAL.]
By his attorney, GEO. S. YERGER.
THOMAS ROBINS, [SEAL.]
By his attorney, GEO. S. YERGER.
WILLIAM R. WHITE, [SEAL.]
By his attorney, GEO. S. YERGER.
JOHN HOOPER, [SEAL.]
By his attorney, GEO. S. YERGER.
LEWIS PHŒNIX, [SEAL.]
By his attorney, GEO. S. YERGER.
JOHN D. BEERS, [SEAL.]
By his attorney, GEO. S. YERGER.
GEO. S. YERGER. [SEAL.]

UNITED STATES OF AMERICA,
Southern district of Mississippi.

Circuit court United States.

I, William H. Brown, clerk of said circuit court, do hereby certify, that the foregoing twenty pages contain a full, true, and complete transcript of the record of the decree between the parties therein named, as the same now remains of record in my office.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at Jackson, this 28th day of April, A. D. [L. S.] 1855, and of the independence of the United States the 79th.

W. H. BROWN, *Clerk*.

UNITED STATES OF AMERICA,
Southern district of Mississippi.

Circuit court United States.

I, Samuel J. Gholson, presiding judge of said circuit court, do hereby certify, that William H. Brown, whose name is subscribed to the foregoing certificate, is, and was at the time of signing the same, clerk of said circuit court, and that his attestation is in due form of law.

Given under my hand and seal, this twenty-eighth day of April, A. D. 1855.

S. J. GHOLSON. [L. S.]